

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

COLLEEN ANNE KENNELLY individually
and on behalf of others similarly situated,

Plaintiff(s),

v.

07cv1555

ELECTRONICALLY FILED

EAT'N PARK HOSPITALITY GROUP, INC. a
corporation,

Defendant(s).

**ORDER DENYING DEFENDANT'S MOTION TO STRIKE
CLASS ALLEGATIONS (DOC. NO. 32)**

After careful consideration of Defendant's Motion to Strike Class Allegations (doc. no. 32) and Plaintiff's Response in Opposition to Defendant's Motion to Strike Class Allegations and Plaintiff's Motion to Amend this Court's Case Management Order (doc. no. 33), the Court will deny the motion to strike and grant the motion to amend.

Plaintiff's purported "failure to comply" with Local Rule 23.1C regarding the timing of a motion to certify a class was based upon the apparent agreement of the parties and plaintiff's inadvertent omission of the agreement to enlarge the time in the proposed case management order, and the consequent failure of the case management order to reflect said agreement. Defendant will not be prejudiced by the enlargement of time within which to file a motion to certify the class, and plaintiff has shown good cause for not complying with the time periods set forth in LR 23.1C.

Accordingly,

Defendant's Motion to Strike Class Allegations (doc. no. 32) is HEREBY DENIED;
Plaintiff's Motion to Amend Case Management Order (doc. no. 33-02) is HEREBY GRANTED.

IT IS FURTHER ORDERED that plaintiff shall file her motion to certify a class with supporting brief on or before **April 14, 2008**; defendant shall file its response and brief in opposition thereto on or before **May 14, 2008**; plaintiff may file a reply brief on or before **May 28, 2008**.

SO ORDERED this 9th day of April, 2008.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All counsel of record